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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,787	09/04/2001	Dietmar Huglin	HP/2-21867	3542
324 7590 05/28/2008 JoAnn Villamizar Ciba Corporation/Patent Department 540 White Plains Road P.O. Box 2005 Tarrytown, NY 10591			EXAMINER CHANNAVAJALA, LAKSHMI SARADA	
			ART UNIT	PAPER NUMBER
			1611	
			MAIL DATE	DELIVERY MODE
			05/28/2008 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/830,787

**Applicant(s)**

HUGLIN ET AL.

**Examiner**

Lakshmi S. Channavajjala

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 33, 35, 36, 42, 43, 47 and 48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33, 35, 36, 42, 43, 47 and 48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

### **DETAILED ACTION**

Receipt of remarks and amendment dated 1-14-08 is acknowledged.

Claims 33, 35, 36, 42, 43, 47-48 are pending in the instant application.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3-11-08 has been entered.

#### ***Response to Arguments***

In response to the amendment, the rejections of record have been withdrawn and the following non-final rejection has been applied:

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 33, 35, 36, 42, 43, 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,643,985 to Hoffmann et al (Hoffmann) in view of US 5,242,689 to Yoshihara et al or vice-versa

Hoffmann teaches stabilization and prevention of oxidation of plastic materials of household or industrial type by the addition of phenolic antioxidants (col.1). The compounds (benzenepropanoic acid 3-(1,1-dimethylethyl)-4-hydroxy)-5-methyl-1,2-ethandiylbis(oxy-2,1-ethandiyl)ester & benzenepropanoic acid 3,5-bis-(1,1-dimethylethyl)-4-hydroxy)-1,6-hexanedylester) described in col. 6 of the Hoffmann meet the claimed compounds with the conditions of "e=2, Q= ethylene, v is O (for claims 33, 35, 36, 42-43). Hoffmann teaches mixtures of the compounds (see col. 3). While Hoffmann teaches the stabilizing compounds for recycled plastic materials (domestic as well as industrial- see col. 12 for lubricants, antistatic agents, pigments) and not body-care products, instant claims recite "body-care products". However, Hoffmann teaches the antioxidants for stabilizing recycled plastic materials that mainly comprise of polymers such as polystyrene, polyolefin etc (col. 1, L 18-25),

Yoshihara teaches cosmetic compositions comprising powdery organic substances such as polyethylene, polypropylene, polyvinyl chloride etc (col. 2, L 37-60, claim 2) and further suggests that the compositions further contains additives such as antioxidants (col. 3, L 41-53). Yoshihara does not teach the claimed phenolic antioxidants. It would have been obvious for one of an ordinary skill in the art at the time of the instant invention was made to employ the antioxidant phenolic compounds of Hoffmann to stabilize cosmetic compositions containing polymeric materials such as polyethylene, polypropylene, polyvinyl chloride of Yoshihara because Hoffmann suggests that the antioxidant compounds are effective in stabilizing the polymeric materials of plastic against thermoxidative degradation. A skilled artisan would have

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expected a stable cosmetic powder composition due to the presence of the antioxidants of Hoffmann.

2. Claims 33, 35 and 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable US 5,723,435 to Severns et al (Severns) in view of US 5,719,129 to Andary et al (Andary).

Severns states that the above antioxidant compounds demonstrate light stability and generally protect dyes from degradation by first preventing generation of singlet oxygen and peroxy radicals, thereafter terminating the degradation pathway (col. 4, L 43-53). In addition to the fabric care compounds such as fabric softeners, Severns also teaches incorporating sunscreen agents such as those described in col. 11 in the compositions containing above antioxidants (the examples include Tinuvin 328, which is UV absorbing compound). Severns does not teach body care compositions.

Andary teaches that exposing to UV radiation; oxygen reduction is incomplete and results in the formation of free radicals that deteriorates phospholipids in cell membranes, resulting in various conditions such as aging, carcinogenesis etc (col. 3, L 25-36). Andary suggests incorporating a caffeic acid derivative, orapoxide, for trapping free radicals, and providing protection from UV A and UVB radiation (col. 3, 1-17). Thus, employing antioxidant compounds with sunscreen and free radical inhibiting effects are known in the art. Accordingly, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention was made to employ the antioxidant phenolic compounds of Severns for their antioxidant activity not only in fabric softening

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compositions but also in cosmetic or pharmaceutical skin care composition such as Andary because suggests antioxidant compounds provide free radical inhibition and protect from ultraviolet radiation in sunlight (sunscreen). A skilled artisan would have expected the antioxidant compounds of Severns that also posses light stability to protect the skin from deterioration of phospholipids in cell membranes and thus inhibit various conditions such as aging, carcinogenesis etc.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -5.30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lakshmi S Channavajjala/  
Primary Examiner,  
Art Unit 1611  
May 21, 2008